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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/520,402 03/08/00 YOSELOFF

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QM12/0926

EXAMINER

MENDIRATTA, V

ART UNIT

PAPER NUMBER

3711

DATE MAILED:

09/26/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/520,402

Applicant(s)

Mark Yosloff

Examiner  
Vishu K. Mendiratta

Art Unit  
3711



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jul 16, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 22-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 22 and claim 23: Placing “at least a part bet”, playing a “second wagering” game and without placing “further” wager are conflicting and confusing limitations. It does not clearly indicate that a second wager (at least a part bet!) is not being placed for playing a second game.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 20-26 stand rejected under 35 U.S.C. 102(b) as being anticipated by Netley or Ornstein.

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Netley teaches a method of playing a poker game comprising the steps of wagering for each game (col.3, lines 13-14), playing at least two games (abstract), allowed to play a second game if winning the first game (col.2, lines 65-67), awards for winning both hands (col.3, lines 27-31), and bonus (col.3, lines 39).

Ornstein also teaches a wagering game allowing a player to win multiple bets (abstract) and enhanced payoffs for consecutive winning (col.5, line 61-64).

Underlined limitations in claim 22 and claim23 do not overcome cited references.

***Claim Rejections - 35 USC § 103***

5. Claims 1-19 and 27-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (,873) in view of Ornstein.

Moody teaches a poker game placing a bet for each game, playing multiple games (abstract), using cards (abstract) and video screens (Fig.1), inherently teaching poker rules and ranks, paying winnings on poker hands (abstract). Moody teaches all limitations of these claims except that it does not teach paying for a parlay or consecutive winnings on hands. Ornstein teaches wagering and enhanced paying on consecutive winnings on hands (col.5, lines 61-64). In order to make the game attractive for players , it would have been obvious to allow a commonly known method step of using the parlay bet. One of ordinary skill in art at the time the invention was made would have provided enhanced payoff by allowing parlay bets.

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Moody also does not teach determining payout on the minimum (lower of the two hands) rank as in applicants claims 3 and 28. In order to maintain the advantage of the house, it would have been obvious to pay on the basis of lower (of the two ranks) of the two hands. One of skill in art at the time the invention was made would have allowed payout on the basis of lower of the two ranks in order to maintain the house advantage.

“At least a part bet” limitation indicated that a t least a part of bet is used as a second wager.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lamle (,146) and Friedman (,543) both teach Parlay bets.

### ***Response to Arguments***

7. Applicant's arguments filed 7/16/01 have been fully considered but they are not persuasive.

Placing “at least a part bet”, playing a “second wagering” game and “without placing “further” wager are conflicting and confusing limitations. It does not clearly indicate that a second wager (at least a part bet!) Is not being placed for playing a second game.

“At least a part bet” limitation indicated that at least a part of bet is used as a second wager in the second wagering game.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

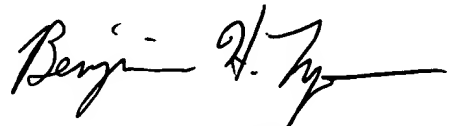
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu Mendiratta whose telephone number is (703) 306-56995. If attempts to reach the examiner are unsuccessful, the examiner's supervisor Jeanette Chapman, can be reached on (703)308-1310. The fax number of the organization where this application or proceeding is assigned is (703)872-9302 for regular communications and (703)872-9303 for AFTER FINAL communications. Any inquiry of general nature or relating to the status of the application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

VKM

September 20, 2001

  
Benjamin H. Layno  
Primary Examiner